



Department of Justice

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JUSTICE DEPARTMENT REACHES SETTLEMENT WITH NEW YORK AND MISSOURI COMPANIES TO PREVENT COLLUSIVE PRACTICES

WASHINGTON, D.C. -- The Department of Justice reached a settlement today with Norsk Hydro USA Inc. and Farmland Industries Inc. that will prevent the companies from again using collusive practices to restrain competitive bidding for ammonia facilities.

In a lawsuit filed in U.S. District Court in Tampa, the Department's Antitrust Division alleges that the New York-based Norsk Hydro USA Inc. entered into a secret agreement with Seminole Fertilizer Corp., which had the effect of eliminating Seminole as a viable bidder on an ammonia storage facility in Tampa. Missouri-based Farmland Industries, Inc. participated in the efforts to reach the agreement and would have benefitted from Hydro's purchase of the facility.

The Department alleged that under the agreement Seminole effectively withdrew as a viable competing bidder for the facility, thereby restraining trade. Had the agreement not been discovered prior to the closing of the sale, the seller would have received an artificially low price.

"This settlement will foster competition by ensuring that Hydro and Farmland do not again restrain competition by entering into private bidding agreements that eliminate any competing producer from the field of potential bidders," said Joel I. Klein, Assistant Attorney General in charge of the Department's Antitrust Division.

Under the settlement, Hydro and Farmland agreed not to submit certain joint bids for certain ammonia assets or violate any terms or conditions imposed by either the seller of the asset or the person administering the sale of the asset without first notifying those persons.

The Department alleged in its complaint that representatives of Hydro and Farmland met with the rival bidder Seminole Fertilizer Corp. in March 1992, at a hotel in New York to discuss sharing pipeline capacity and the cost of bidding on the Tampa facility.

Two hours before the March 12, 1992, auction took place, Seminole and Hydro agreed that Hydro would receive bid support of up to \$2.5 million from Seminole, if necessary, to defeat a competing bid. The agreement eliminated any incentive for Seminole to bid, because it would have been bidding up the price against itself. In exchange, Hydro agreed to give Seminole increased pipeline capacity if Hydro was the successful bidder. Farmland benefitted from the arrangement because of its partnership with Hydro, which intended the Tampa facility to be an asset of Farmland Hydro Limited Partnership--a joint venture formed by the two companies in November 1991. Seminole withdrew from the auction, leaving Hydro as the only bidder.

If approved by the court, the proposed settlement, which would alleviate the Department's competitive concerns, would settle the lawsuit.

Ammonia is a primary raw material used for the production of diammonium phosphate fertilizer.

As required by the Antitrust Procedures and Penalties Act, the proposed consent decree, along with the Department's competitive impact statement, will be published in the Federal Register. Any person may submit comments on the proposed decree within 60 days to Nezida S. Davis, Acting Chief, Atlanta Field Office, Antitrust Division, Department of Justice, Richard B. Russell Building, 75 Spring Street, S.W., Suite 1176, Atlanta, Georgia 30303. At the conclusion

of the comment period, the court may enter the consent decree upon finding that it serves the public interest.

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